

3 AAC 106.300 is repealed:

3 AAC 106.300. Application Process. Repealed. (Eff. 2/16/96, Register 137; am 3/25/2005; Register 173; am 10/16/2009, Register 192; repealed ____/____/____, Register ____)

3 AAC 106.305 is repealed:

3 AAC 106.305. Examination. Repealed. (Eff. 2/16/96, Register 137; repealed ____/____/____, Register ____)

3 AAC 106.310 is repealed:

3 AAC 106.310. Eligibility. Repealed. (Eff. 2/16/96, Register 137; am 3/25/2005; Register 173; am 10/16/2009, Register 192; repealed ____/____/____, Register ____)

3 AAC 106.315 is repealed:

3 AAC 106.315. Financial and credit record. Repealed. (Eff. 2/16/96, Register 137; repealed ____/____/____, Register ____)

3 AAC 106.320 is repealed:

3 AAC 106.320. Ability to repay. Repealed. (Eff. 2/16/96, Register 137; repealed ____/____/____, Register ____)

3 AAC 106.325 is repealed:

3 AAC 106.325. Lending practices. Repealed. (Eff. 2/16/96, Register 137; repealed ____/____/____, Register ____)

3 AAC 106.330 is repealed:

3 AAC 106.330. Disbursement of loan money. Repealed. (Eff. 2/16/96, Register 137; repealed ____/____/____, Register ____)

3 AAC 106.335 is repealed:

3 AAC 106.335. Supervision of loans. Repealed. (Eff. 2/16/96, Register 137; repealed ____/____/____, Register ____)

3 AAC 106.340 is repealed:

3 AAC 106.340. Costs. Repealed. (Eff. 2/16/96, Register 137; repealed ____/____/____, Register ____)

3 AAC 106.345 is repealed:

3 AAC 106.345. Assumptions. Repealed. (Eff. 2/16/96, Register 137; repealed ___/___/___, Register ___)

3 AAC 106.350 is repealed:

3 AAC 106.350. Modifications. Repealed. (Eff. 2/16/96, Register 137; repealed ___/___/___, Register ___)

3 AAC 106.355 is repealed:

3 AAC 106.355. Reconsideration of loan request. Repealed. (Eff. 2/16/96, Register 137; repealed ___/___/___, Register ___)

3 AAC 106.360 is repealed:

3 AAC 106.360. Confidentiality of loan information. Repealed. (Eff. 2/16/96, Register 137; repealed ___/___/___, Register ___)

3 AAC 106.365 is repealed:

3 AAC 106.365. Definitions. Repealed. (Eff. 2/16/96, Register 137; repealed ___/___/___, Register ___)

3 AAC 161.010 is amended to read:

3 AAC 161.010. Application process. To apply for a loan for the purchase and transportation of bulk fuel [FROM THE BULK FUEL BRIDGE LOAN PROGRAM] under AS 42.45.250 [AS 29.60.660], an applicant shall file with the division [DEPARTMENT OR ITS DESIGNATED AGENT]

(1) a completed application for a fuel loan on a form provided by the division [DEPARTMENT];

(2) proof that the application is for a community with a population under 2,000.

(3) [(2)] a letter of intent, on a form provided by the division [DEPARTMENT], stating the amount requested and the intended use of the proposed loan money;

(4) [(3)] a fuel loan agreement and promissory note [BULK FUEL BRIDGE LOAN AGREEMENT], on a form provided by the division [DEPARTMENT];

[(4) A PROMISSORY NOTE, ON A FORM PROVIDED BY THE DEPARTMENT;]

(5) if the applicant is a Native village council, a resolution waiving sovereign immunity on a form provided by the **division** [DEPARTMENT];

(6) a resolution by community or corporate applicants approving the purchase of bulk fuel, on a form provided by the division;

(7) any other information requested by the division to demonstrate the applicant's eligibility for a loan.

[(6) A WRITTEN ENDORSEMENT, ON A FORM PROVIDED BY THE DEPARTMENT, FROM THE GOVERNING BODY OF THE COMMUNITY FOR WHICH A LOAN IS BEING REQUESTED;]

[(7) INFORMATION ABOUT THE CONDITION OF THE FUEL STORAGE TANKS WHERE THE FUEL IS TO BE KEPT;]

[(8) A COPY OF THE LETTER AND STATEMENT PROVIDED UNDER 3 AAC 106.305 BY THE ALASKA ENERGY AUTHORITY, DENYING THE APPLICANT'S APPLICATION FOR A LOAN FROM THE BULK FUEL REVOLVING LOAN FUND ESTABLISHED UNDER AS 42.45.250;]

[(9) A COPY OF A LETTER DENYING THE APPLICANT'S APPLICATION FOR A LOAN FROM ANY OTHER SOURCE USED TO FINANCE THE PURCHASE OF BULK FUEL WITHIN THE PAST THREE YEARS; AND]

[(10) ANY OTHER INFORMATION REQUESTED BY THE DEPARTMENT TO DEMONSTRATE THE APPLICANT'S ELIGIBILITY FOR A LOAN.]

Authority: **AS 42.45.250** [AS 29.60.660]

3 AAC 161.020 is amended to read:

3 AAC 161.020. Examination. (a) The **division will process the material described in this chapter and evaluate the eligibility of the community and the applicant's eligibility, financial and credit records, ability to repay the loan and any other relevant information.** [DEPARTMENT OR ITS DESIGNATED AGENT WILL PROCESS THE MATERIAL DESCRIBED IN 3 AAC 161.010 AND EVALUATE THE ELIGIBILITY OF THE COMMUNITY AND THE APPLICANT'S ELIGIBILITY, FINANCIAL AND PAST LOAN RECORDS, ABILITY TO REPAY THE LOAN AND ANY OTHER RELEVANT INFORMATION. ADDITIONALLY, THE DEPARTMENT OR AGENT WILL EVALUATE THE INFORMATION PROVIDED UNDER 3 AAC 161.010(10).]

(b) On the basis of the evaluation described in (a) of this section, the **division** [DEPARTMENT] will

(1) **inactivate the application, if the applicant fails to provide the information required within 30 days of receipt of the application** [DENY THE APPLICATION, IF THE APPLICATION IS INCOMPLETE OR THE APPLICANT IS INELIGIBLE; OR]

(2) **deny the application, if the applicant is ineligible; or**

(3) **approve the application as a bulk fuel loan or a bulk fuel bridge loan; such approval may include modifications to the request.**

[(2) APPROVE THE APPLICANT'S LOAN REQUEST; THE DEPARTMENT'S APPROVAL MAY INCLUDE MODIFICATIONS TO THE REQUEST.]

(c) The division will fix, within the limitations set by AS 42.45.250 – 42.45.299, the terms of a loan, including the interest rate, and repayment schedule.

(d) [(c)] If a loan request is denied or significantly modified by the **division** [DEPARTMENT], the **division** [DEPARTMENT] will provide the applicant with a **written** statement of the reasons for the action and the information relied upon by the **division** [DEPARTMENT], for the denial or modification.

(e) [(d)] A material misstatement or omission of fact made by an applicant constitutes grounds for denial of a loan request.

Authority: **AS 42.45.250** [AS 29.60.660]

3 AAC 161.030 is repealed and readopted to read:

3 AAC 161.030. Eligibility. To be eligible for a loan

(1) an applicant must intend to use the loan for purchase of fuel for an emergency or annual or semiannual supply, including the necessary costs of transporting the fuel;

(2) an applicant must agree to repay the loan in one year or less, according to a repayment plan determined by the division;

(3) the amount of the loan, added to the amounts of all other bulk fuel revolving loan principle balances to the same borrower may not exceed \$750,000, unless the loan is from the bulk fuel loan account and the borrower is a cooperative corporation organized under AS 10.15 or an electric cooperative organized under AS 10.25 and uses the loan to purchase bulk fuel on behalf of more than one community. The amount of the loan, added to the amounts of all other bulk fuel revolving loan principle balances to the same borrower may not exceed \$750,000 multiplied by the number of eligible communities on whose behalf the bulk fuel is to be purchased, or \$1,800,000, whichever is less. (Eff. 9/2/2008; Register 188; am 1/28/2009, Register 189; am ___/___/___, Register ___)

Authority: AS 42.45.250

3 AAC 161.040 is amended to read:

3 AAC 161.040. Financial and credit record. The division [DEPARTMENT OR ITS DESIGNATED AGENT] may, in its discretion, consider the following [FACTORS] in evaluating an applicant's financial and credit record:

(1) existing and prior debts;

(2) credit reports obtained from creditors and private credit reporting services;

(3) [(2)] prior loan history with other known fuel lenders or the division;

(4) [(3)] timeliness in making payments on loans and other debts;

(5) [(4)] existence of tax liens;

(6) [(5)] unpaid judgments and prior foreclosures;

(7) [(6)] financial and credit reputation;

(7) PROPOSED SELLING PRICE OF FUEL PURCHASED OR ELECTRICITY GENERATED USING PURCHASED FUEL.

Authority: AS 42.45.250 [AS 29.60.660]

3 AAC 161 is amended by adding a new section to read

3 AAC 161.045. Interest. (a) Interest shall be charged on a bulk fuel loan and a bulk fuel bridge loan at a base rate of four percent except as provided under AS 42.45.280 (b) and (c). The interest rate for a first time borrower that receives a bulk fuel bridge loan shall be zero.

(b) Upon application the division may reduce the interest rate on a subsequent bulk fuel loan based on the borrower's repayment history of previous bulk fuel loans as follows:

(1) the division may reduce the interest rate by one percent for a borrower who has had at least one previous bulk fuel loan;

(2) the division may reduce the interest rate by two percent for a borrower who has had two or more previous bulk fuel loans ; and

(3) If an application for an interest rate reduction is denied, the division will provide the applicant with a written statement of the reasons for the denial.

Authority: AS 42.45.250

3 AAC 161.050 is amended to read:

3 AAC 161.050. Lending practices. (a) The loan period will be fixed by the division based on the needs of the borrower. However, loans must be repaid within one year. [THE AMOUNT OF THE LOAN, ADDED TO THE AMOUNTS OF ALL OTHER BULK FUEL BRIDGE LOANS TO THE SAME BORROWER IN THE SAME FISCAL YEAR, MAY NOT EXCEED \$750,000.]

[(b) THE LOAN PERIOD WILL BE FIXED BY THE DEPARTMENT BASED ON THE NEEDS OF THE BORROWER. HOWEVER, LOANS MUST BE REPAID WITHIN ONE YEAR AFTER THE DATE OF THE AWARD.]

(b) [(c)] Proceeds of a bulk fuel loan may not be used to

(1) purchase fuel other than bulk petroleum fuels; or

(2) make a profit, unless the profit is used to purchase additional community fuel supplies.

Authority: AS 42.45.250 [AS 29.60.660]

3 AAC 161.060 is amended to read:

3 AAC 161.060. Disbursement of loan money. (a) Loan money will be disbursed after the borrower has complied with the provisions of the loan documents and the requirements of this chapter.

(b) Loan money will be disbursed upon receipt by the division, of delivery bills and fuel invoices.

[(c) LOAN MONEY WILL NOT BE DISBURSED UNTIL THE LOAN AGREEMENT, THE BORROWING RESOLUTION, THE PROMISSORY NOTE, AND THE RESOLUTION WAIVING SOVEREIGN IMMUNITY, WHEN APPLICABLE, HAVE BEEN SIGNED BY THE AUTHORIZING SIGNATORIES AND RECEIVED BY THE DEPARTMENT.]

Authority: AS 42.45.250 [AS 29.60.660]

3 AAC 161.070 is amended to read:

3 AAC 161.070. Modifications. A request for a modification to a loan made under **AS 42.45.250 – 42.45.299** [AS 29.60.660 AND THIS CHAPTER] will be processed in the same manner as a loan application. The division [DEPARTMENT OR ITS DESIGNATED AGENT] may, **in its discretion**, require the applicant to provide **additional information in support of the request**. [ONE OR MORE OF THE ITEMS SPECIFIED IN 3 AAC 161.010.]

Authority: **AS 42.45.250** [AS 29.60.660]

3 AAC 161.080 is amended to read:

3 AAC 161.080. Reconsideration of a loan request. (a) If a loan request is denied, **inactivated**, or significantly modified by the division [DEPARTMENT], an applicant may file a written request for reconsideration within 30 days after receipt of notice of the **division's** [DEPARTMENT'S] decision.

(b) The division [DEPARTMENT] will consider a request for reconsideration if the applicant submits information to show that

(1) there has been a substantial change in the circumstances leading to the **division's** [DEPARTMENT'S] decision;

(2) additional relevant information can be provided to the division [DEPARTMENT] that was not initially available; or

(3) administrative errors were made by the division [DEPARTMENT OR ITS DESIGNATED AGENT].

Authority: **AS 42.45.250** [AS 29.60.660]

3 AAC 161.090 is repealed:

3 AAC 161.090. Confidentiality in loan information. Repealed. (Eff. 9/2/2008, Register 188; am 1/28/2009, Register 189; repealed ___/___/___, Register ___)

3 AAC 161.900 is amended to read:

3 AAC 161.900. Definitions. in this chapter, unless the context requires otherwise,

(1) "bulk fuel" means bulk petroleum fuels;

(2) "bulk fuel loan" has the meaning given in AS 42.45.260;

(3) "bulk fuel bridge loan" has the meaning given in AS 42.45.270;

(4) [(2)] "default" includes a violation of any provision of **AS 42.45.250 – AS 42.45.299** [AS 29.60.660] this chapter or the loan documents, failure to make a necessary payment within 30 days after it is due, or failure to maintain the insurance required by the division;

(5) "division" means the division in the Department of Commerce, Community, and Economic Development that is responsible for community and regional affairs.

[(3) "DEPARTMENT" MEANS THE DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT;]

(6) [(4)] "Native village council" means

(A) a council organized under 25 U.S.C. 476 (sec. 16 of the Indian Reorganization Act);

(B) the council for the Annette Island Reserve established by 25 U.S.C. 495 for the Metlakatla Indian Community; or

(C) a traditional village council recognized by the United States as eligible for federal aid to Indians.

Authority: **AS 42.45.250** [AS 29.60.660]